

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DEBRA JEAN VAN HORN,

PLAINTIFF,

v.

SHELTON TRUCKING, LLC,
LARRY THOMAS HURLEY, JOHN
DOE and XYZ CORPORATIONS 1-5,

DEFENDANTS.

CIVIL ACTION NO.

CONSENT NOTICE OF REMOVAL

COME NOW, Defendants Shelton Trucking, LLC, (“Shelton”) and Larry Thomas Hurley (“Hurley”) (collectively “Defendants”) and hereby file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice, Defendants state as follows:

PROCEDURAL BACKGROUND AND PREREQUISITES

1. Plaintiff commenced a civil action against Defendants on or about January 15, 2021, in the State Court of Gwinnett County, State of Georgia, Civil Action File No. 21-C-00302-S2 (the “State Court Action”).

2. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because Defendants Shelton and Hurley were both served with a copy of the State Court Action on March 17, 2021, via an acknowledgment of service.¹

3. Pursuant to 28 U.S.C. § 1446(a), attached hereto as **Exhibit A** are copies of all process and pleadings served upon Defendants to date in the State Court Action. *See* Exhibit A.

4. A removal notice and a copy of the instant Notice of Removal shall be filed with the Clerk of the State Court of Gwinnett County, State of Georgia, and shall be served on Plaintiff. A true and correct copy of the removal notice that the undersigned will file with the Clerk of the State Court for Cobb County, State of Georgia is attached hereto as **Exhibit B**. *See* Exhibit B.

5. Removal to this Court is proper pursuant to 28 U.S.C. §§ 1441 and 1446 because the State Court Action is currently pending in this Judicial District.

¹ Plaintiff's Complaint in the State Court Action originally named Hudson Insurance Company as a Defendant. Hudson is a Delaware corporation incorporation with its principal place of business located in New York. The Parties filed a Consent Motion Dismissing Hudson without prejudice. The State Court signed an Order granting the Consent Motion and dismissed Hudson as a party on March 18, 2021. *See* Exhibit C.

Diversity Jurisdiction

6. Removal of this action is proper under 28 U.S.C. § 1332 because the citizenships of the parties are fully diverse and the amount in controversy for Plaintiff's claim is more than \$75,000.00 exclusive of interest and costs.

Complete Diversity of Citizenship

7. Both at the time the Complaint was filed and at the time of filing this Notice of Removal, Plaintiff Debra Jean Van Horn was and has remained a citizen of the State of Georgia.

8. Defendant Shelton Trucking, LLC, was at the time of the filing of this Notice of Removal and was at the time of the commencement of this action a foreign limited liability company organized under the laws of the State of Delaware with its principal place of business at 1810 Avenue C, Birmingham, Alabama. The sole member of Shelton Trucking, LLC, is P&S Transportation, LLC. The sole member of P&S Transportation, LLC is P&S Acquisition, LLC. The sole member of P&S Acquisition, LLC is P&S HoldCo, LLC. The sole member of P&S HoldCo, LLC is PS FinCo 2, LLC. The sole member of PS FinCo 2, LLC is PS FinCo 1, LLC whose sole member is PS Parent, LLC. The members of PS Parent, LLC are Goodwin Enterprises, Inc. and OEP Capital Advisors, L.P. Goodwin Enterprises, Inc. is a corporation organized under the laws of the State of Alabama with its principal place

of business at 1810 Avenue C, Birmingham, Alabama. OEP Capital Advisors, L.P. is a Delaware limited partnership whose partners are residents of the following country and states: Germany, Connecticut, New York, Illinois, and Massachusetts.

9. Defendant Hurley is a citizen and resident of the state of Alabama. (Compl. ¶ 2.)

10. Accordingly, there exists complete diversity of citizenship between the Plaintiff and all the Defendants.

Amount in Controversy

11. As a result of claimed injuries, Plaintiff alleges she has incurred and is entitled to recover special and general damages, to include past and future “physical pain and emotional pain and suffering.” (Compl. ¶¶ 31-32, Prayer for Relief.)

12. According to the Complaint, Plaintiff claims incurred medical special damages in excess of \$400,000.00. (Compl. ¶ 31.) Plaintiff also seeks non-economic general damages and costs in an unspecified amount. (Compl. ¶ 32, Prayer for Relief.)

13. Accordingly, based on Plaintiff’s allegations and the evidence of special damages incurred to date presented, the amount in controversy in this case exceeds \$75,000.00.

14. Plaintiff consents and has no objection to the removal of this case to the Northern District of Georgia, Atlanta Division.

WHEREFORE, for the foregoing reasons, this Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332, and removal of the action to this Court is proper pursuant to 28 U.S.C. § 1441. Defendants respectfully request that this action proceed before this Court.

Respectfully submitted this 22nd day of March, 2021.

THE FRY LAW FIRM

O'DANIEL McDONALD, LLC

/s/Kimberly DeWitt Mowbray (signed
w/express permission by CSO)

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CERTIFICATE OF SERVICE

This is to certify that I have this day served the Plaintiff's counsel of record with a copy of the within and foregoing **CONSENT NOTICE OF REMOVAL OF ACTION** via mail and by using the CM/ECF system to the following attorneys of record:

Kimberly DeWitt Mowbray
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This 22nd day of March, 2021.

/s/Clay S. O'Daniel
Clay S. O'Daniel